IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 2717 of 2007

BANWARI LAL
V/S
RENT TRIBUNAL,SGNR. & ORS.

Mr. KISHAN BANSAL, for the appellant / petitioner

Mr. VK AGARWAL, for the respondent

Date of Order : 22.5.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

The grievance of the learned counsel for the petitioner is that the petitioner had filed the application under Order 41 Rule 27 being Annex.2, and as is clear from Annex.3 that on 1.3.2007, it was ordered by the learned lower Appellate Court that the application shall be considered at the time of hearing of the appeal itself, and the matter was fixed for arguments on the application as well as the appeal. Thereafter on 22.3.2007, the arguments on the application as well as the appeal were heard, and the case was fixed on 24.3.2007. Then on 24.3.2007, the appeal has been dismissed vide Annex.4, but then nothing has been said in that order about the application Annex.2.

Learned counsel for the respondent filed entered appearance as caveator and submits that let the matter be sent back to the learned lower Appellate Court to decide the matter afresh by deciding the application Annex.2 also,

and then at the same time, to decide the appeal also afresh on merits in accordance with law.

Accordingly, the order Annex.4 is set aside and the matter is sent back to the learned lower Appellate Court to decide the appeal afresh by deciding the appeal alongwith the application Annex.2. Obviously, Annex.2 will be decided on its own merits, and its effect would be considered on merits of the appeal as well. The parties are directed to appear before the learned lower Appellate Court on 9th of July 2007. The learned lower Appellate Court shall decide the appeal most expeditiously.

The writ petition is, accordingly, partly allowed.

(N P GUPTA),J.

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